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June 1, 2023

VIA EMAIL

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**Re:    *United States ex rel. Liebman v. Methodist Le Bonheur Healthcare, et al.*, No.  
      3:17-cv-00902 (M.D. Tenn.)**

Dear Counsel:

I am writing in accordance with the Court Order of May 10, 2023. *See* ECF No. 337.

The Department of Justice (“DOJ”) ran all of the search terms during the timeframe required by that Order against the four DOJ Civil custodians whom the parties agreed that the United States would search: Michael Granston, Dan Anderson, David Cohen, and Tracy Hilmer. DOJ then reviewed the documents that hit on the required search terms. There are no new documents from DOJ Civil custodians responsive to RFPs 26 or 27.<sup>1</sup>

The United States Department of Health and Human Services, Office of Inspector General (“HHS-OIG”) ran all of the search terms during the timeframe required by that Order against four custodians whom the United States agreed to search: Lisa Re, Dan Levinson, Tamar Terzian, and Katie Arnholt. Ms. Arnholt was a new custodian whom the United States added following the May 10 Order. HHS-OIG then reviewed the 123,068 documents that hit on the required search terms, but HHS-OIG did not find any new documents responsive to RFPs 26 or 27.<sup>2</sup> To complete

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<sup>1</sup> The United States previously produced certain documents for the DOJ custodians in March 2023. The United States is not reproducing those now.

<sup>2</sup> The United States previously produced one document from an HHS-OIG custodian in March 2023. The United States is not reproducing that document now.

this review, HHS-OIG had to divert approximately 20 HHS-OIG attorneys to this project for over a two-week period. Those attorneys were diverted from conducting other, substantial work for HHS-OIG.

As the United States has noted in several Court filings, it is impossible for the Centers for Medicare and Medicaid Services (“CMS”) and the Medicare contractors to meet the June 1, 2023 deadline. *See* ECF Nos. 370-79. Therefore, the United States has sought to have this deadline stayed and/or extended pending a ruling from the District Court. *See* ECF No. 381, 390. However, CMS has uploaded 68,302 documents from three custodians<sup>3</sup> to a review platform that hit on the responsive search terms during the ordered timeframe for three custodians. In addition, notwithstanding the technical limitations identified in filed declarations from the MACs in this case, CMS is also preparing the instructions to the relevant Medicare contractors (known as “MACs”) to search for documents for certain custodians and perform a review.

Sincerely,

/s/ Ellen Bowden McIntyre

Ellen Bowden McIntyre  
Deputy Chief, Affirmative Civil Enforcement

cc: Wynn Shuford  
Jerry Martin  
Seth Hyatt  
Bryan Vroon

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<sup>3</sup> These three custodians are described in the Declaration of Janet Nolan, ECF No. 379, ¶ 6. They are Martha Kuespert, Lisa Wilson Ohrin, and Laura Dash.